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December 5, 2002

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte Presentation*
Review of the Section 251 Unbundling Obligations of Incumbent
Local Exchange Carriers, CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On December 4, 2002, Wayne Huyard, President, MCI Mass Markets, Donna Sorgi, Vice President, Federal Advocacy, and Terri Claffey, Senior Policy Advisor, on behalf of WorldCom, Inc. ("WorldCom") met with Commissioner Jonathan S. Adelstein and Eric Einhorn, interim Legal Advisor to Commissioner Adelstein. During that meeting, WorldCom representatives discussed MCI's Neighborhood, the unbundled network element platform (UNE-P), and the role of state commissions, as described in previous WorldCom submissions in the *UNE Triennial Review* proceeding. WorldCom also provided Commissioner Adelstein and Mr. Einhorn with copies of: WorldCom's *ex parte* letter filed in the above-captioned dockets on November 18, 2002; WorldCom's request that the Texas Public Utility Commission launch an investigation into the use of UNE-P and the feasibility of transitioning to an unbundled loop regime (attached); and a letter and press release from NARUC to the FCC, signed by 80 state commissioners from 34 states, urging the Commission to continue to allow the states flexibility to maintain UNE-P as an entry strategy, as well as the ability to add to any national list of UNEs (attached).

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter is being provided to you for inclusion in the public record of the above-referenced proceedings.

Sincerely,

/s/ Ruth Milkman
Ruth Milkman

Attachments

cc: Commissioner Adelstein
Eric Einhorn

PROJECT NO. _____

REQUEST FOR INVESTIGATION	§	BEFORE THE
INTO USE OF UNBUNDLED	§	
NETWORK ELEMENT - PLATFORM	§	PUBLIC UTILITY COMMISSION
IN PROVISION OF COMPETITIVE	§	
TELECOMMUNICATIONS SERVICE	§	OF TEXAS

**MCIMETRO'S REQUEST FOR AN INVESTIGATION
REGARDING THE USE OF UNE-P IN PROVISIONING
COMPETITIVE TELECOMMUNICATIONS SERVICE**

MCImetro Access Transmission Services, LLC (MCI) requests that the Public Utility Commission of Texas (PUC or Commission) initiate an investigation regarding the use of Unbundled Network Element – Platform (UNE-P) in the provision of competitive telecommunications service in the State of Texas, including whether, when and under what conditions it may be appropriate to transition from UNE-P to Unbundled Network Element – Loop (UNE-L) in the provision of competitive telecommunications services in Texas.

I. Introduction

More than one million Texans have selected a competitive local exchange carrier as their residential or small business phone provider. For these constituents, and for the others who will be able to choose in a competitive market in the future, the benefits of competition that they are beginning to experience in the local exchange service market are real and meaningful, not synthetic and artificial as some contend.

The Bell Operating Companies (and most especially SBC) have mounted a multi-front and strident attack against UNE-P, which serves as the only currently viable service delivery method, ensuring seamless provisioning, for CLECs to provide local service to the residential and small business mass markets.

Coincident with this attack, the Federal Communications Commission (FCC) is undertaking its Triennial Review of those Unbundled Network Elements (UNEs) that incumbent local exchange carriers (ILECs) are required to provide to competitors. Some commenters, including SBC, have suggested in that proceeding that there are compelling interests that should lead the FCC to eliminate local switching as a UNE and, thereby, make UNE-P extinct. SBC also has asked the FCC to preclude the states from requiring that switching be provided to competitors under a state's own authority. See, SBC Ex Parte, Letter from Brian Benison, SBC, to FCC Secretary Dortch, CC Docket NO. 01-338(Triennial Review), dated November 1, 2002 at 2.¹

A forced elimination of UNE-P by a date certain, without considering the circumstances under which such a transition might—or might not—work would be extremely unwise. Equally damaging would be a forced transition

¹ SBC's position favoring federal pre-emption and opposing a prominent state role in setting important telecommunications policies represents a relatively recent conversion. In 1996, as the FCC was considering rules implementing the Telecommunications Act of 1996, SBC favored a prominent role for the states. It argued against the FCC's establishing prescriptive rules, favoring a looser federal role, and urged the delegation to the states of important decisions, because state regulators ". . . best understand the issues specific to their states." See, Press Release, "SBC Urges FCC to Change Course On Interconnection Proposal," May 16, 1996, http://www.sbc.com/press_room/1,5932,31,00.html.

schedule not based on sound economic,² technical³ and market realities. It would also deprive consumers in Texas of the sole vehicle now available to support residential and small business local competition. And, as SBC and the other Bell monopolies continue their progress in securing 271 authorizations, it would guarantee Bell remonopolization of the entire residential and small business telecommunications marketplace. One can understand SBC's interest in such an outcome. But through this petition MCI urges the Commission to investigate the consumers' interests in this debate.

MCI is a strong proponent of the principle that States must maintain a significant and meaningful role in designing the conditions and parameters of local competition, including any transition from UNE-P to UNE-L. The States have led the way in opening local markets, and it is the States that must play an active role in determining the shape and contours of a policy favoring a transition toward facilities-based service platforms. The Commission should take the lead, as is its history, to understand fully the consequences of a

² There are numerous open questions as to whether a CLEC economically could utilize a SWBT-provided loop (and possibly transport) in conjunction with the CLEC's own switching capabilities. A preliminary analysis by MCI indicates that the CLEC's monthly out-of-pocket costs (i.e., payments to SWBT) would be greater than in a UNE-L scenario even though SWBT is no longer providing a major function—local switching. (This calculation does not take into account the CLEC's investment in switching, land and buildings, transmission equipment, collocation space, power, and equipment, or any other CLEC investment necessary to utilize its own switching capabilities.) MCI's analysis reveals also that the one-time costs to migrate a retail customer from SWBT to the competitor's service provided using the CLEC's own switching would be hundreds of percentage points higher than conversion costs using UNE-P.

³ Current loop provisioning practices by Southwestern Bell Telephone, for example, are inefficient and not scalable. Scalability is an issue of cardinal importance to MCI. Based on its experience, the quantity of MCI circuits subject to SWBT's hot cut processes number in the range of a few thousand per year, whereas the quantity that would be subject to the efficient loop conversion processes would be in the range of tens of thousands per month and certainly in the hundreds of thousands for all CLECs.

forced elimination policy and to evaluate and determine the conditions under which a migration to UNE-L would be economic and appropriate, and it should play a prominent role in crafting the policies that affect the residential and small business marketplace in Texas.

MCI, therefore, requests that the Commission open an investigation to assess the proper role for UNE-P in a competitive marketplace, determine whether a government policy favoring a transition away from UNE-P and toward UNE-L is wise, identify the factors necessary to make such a transition successful and workable, make recommendations relevant to these matters to the FCC, and adopt policies that would apply within the State of Texas for such a transition.

II. Jurisdiction

A. AUTHORITY PURSUANT TO PURA

Jurisdiction for the Commission's undertaking is found at PURA⁴ Section 52.104, which authorizes a Commission investigation as necessary "to determine the effect and scope of competition in the telecommunications market." *PURA § 52.104(a)*. While the Commission has limited its past investigations, pursuant to this provision, to the issuance of its scope of competition report, this language is broad enough to permit the investigation MCI proposes.

PUC Procedural Rule 22.284(b) further permits creation by the Commission of "committees of employees, non-employees, or both to advise it with respect to any contemplated rulemaking ***or other issues of interest***

⁴ Public Utility Regulatory Act, Tex. Util. Code Ann. (Vernon 1998 & Supp. 2001) (PURA).

to the commission, utilities, ratepayers, or other members of the public (emphasis added)."

As MCI's request for a Commission investigation is not a complaint against any particular party, MCI does not list any known parties.⁵ MCI believes all local exchange carriers (LECs) should participate in the investigation, and MCI recommends that notice in the *Texas Register* would serve as appropriate notification of the investigation to the LECs. MCI's suggested issues for discussion during the investigation are set forth below.

MCI urges that the Commission preside over the proposed proceeding, since it is not a contested hearing that would necessitate transfer to the State Office of Administrative Hearings (SOAH).⁶ The Commission, moreover, has collective knowledge of the issues that would be addressed and of the Texas telecommunications market, unlike any judge at SOAH who might have case-specific knowledge. MCI's request that the Commission undertake the proposed investigation promotes cost savings and efficiency of resources.

⁵ See Proc. R. 22.73(2), 22.73(3).

⁶ Other than a hearing conducted by one or more Commissioners, SOAH is authorized to conduct hearings related to contested cases before the Commission. *PUC Proc. R. 22.207*. MCI's proposed proceeding is not a contested case, which is defined as a "proceeding, including a ratemaking or licensing proceeding, in which the legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing." *PUC Proc. R. 22.2(16)*.

B. AUTHORITY PURSUANT TO FTA

The Federal Telecommunications Act of 1996⁷ at Section 253, relating to Removal Of Barriers To Entry, also authorizes the proposed investigation by the Commission. This provision states:

(b) STATE REGULATORY AUTHORITY - Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to . . . protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

MCI's proposed process is consistent with FTA Section 254 and would serve to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

III. Discussion

UNE-P has been working for only a short time, and the competition it supports is in its infancy.⁸ A flash cut elimination of UNE-P provisioning seriously jeopardizes that competition. For any government-imposed UNE-P to UNE-L transition plan to have the appropriate, pro-competitive result, it must be predicated on technical, market and economic realities.

⁷ Telecommunications Act of 1996, Pub L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 15 and 47 U.S.C.) (FTA).

⁸ SWBT has achieved an approximate a one-third share of the market in the Texas long distance market in roughly two years (since July 2000), while MCI's local market share is in the low single digits in a similar time frame. Based on the FCC's competition statistics, CLECs' current share of the Texas residential and small business market in its entirety is only about 11 percent. In more than 20 years, the combined long distance market shares of MCI and Sprint were less than 21 percent. As to the current estimate of SWBT's long distance market share of 30+ percent, that is greater than MCI and Sprint's combined market shares—ever.

Facilities-based competition in residential and small business markets is a goal, however, that MCI shares.⁹ It believes that, in time—as individual CLECs acquire concentrated and sizeable-enough customer bases—the market will allow some competitive providers to make a voluntary transition away from UNE-P and inevitably toward CLEC-owned facilities on an economic basis. While that has not occurred yet, MCI strongly supports the detailed examination of how a transition from competition based on UNE-P to competition based on UNE-L would work. An important component of this examination would be a market trial, in which MCI would volunteer to use its local switches deployed in Texas

MCI, therefore suggests that the Commission’s investigation include several steps, and focus on at least the following issues:

A NOTICE INVITING COMMENT

The following issues at a minimum, MCI urges, require close and careful review:

- operational factors affecting any transition, including the scalability of existing and proposed processes;
- economic factors, including the cost of transition to existing and new facilities, that must be addressed prior to transition;
- the availability and cost of new or improved loop provisioning methods;
- the ability of all competitors to make the transition in all parts of the state;

⁹ MCI launched its Texas residential service product, The Neighborhood, in April 2002.

- customer-affecting matters relating to a transition of UNE-P customers to a UNE-L based-platform, including LNP and 911 issues;¹⁰
- pricing and availability of enhanced extended links (EELs), all variations, including concentrated EELs;
- pricing and availability of collocation, physical and virtual;
- alternative means of gaining access to loops in any (central office CO), such as alternatives to EELs and physical/virtual collocation;
- provisioning of "project hot cuts" and attendant costs;
- efficient, scalable loop provisioning to handle a dynamic market where customers may readily switch between facilities-based carriers without service disruption and high attendant costs that, of course, jeopardize customer good will for each carrier;
- unbundling integrated digital loop carrier (IDLC) loops (some ILECs, for example, continue to claim that loops on this technology cannot be unbundled); and
- terms, conditions, procedures and proposed timetables for implementation of efficient local loop provisioning, tested by an independent third party.

Participants, of course, could suggest issues to add to this list, with the Commission making the final determination as to whether the proposed issues are appropriate.

A COLLABORATIVE SUPERVISED BY THE COMMISSION

A collaborative convened and chaired by the Commission would follow in which the telecommunications industry, consumer organizations, and the Commission would present their technical information, air their competitive concerns, urge their respective viewpoints, and determine the likely consequences of a transition policy (the Collaborative). Commission staff

¹⁰ MCI further suggests that issues such as specific technologies, LNP, 911, directory listings may require concurrent but separate review by a technical group that also would report its findings to the Commission.

would frame the issues for discussion and resolution by industry players, consumer representatives and other interested parties.

At the close of the Collaborative the Commission would issue a report containing the participants' positions during the Collaborative and the Commission's findings and recommendations (the Commission Report) resulting from the Collaborative.

MCI further recommends that the Commission submit the Commission Report to the FCC as a position statement of the status of the UNE-P and UNE-L conditions in Texas.

A MARKET TEST OF UNE-L, USING WORLDCOM LOCAL SWITCHES AND SBC PROVISIONING SYSTEMS

A Commission-sanctioned and supervised test of the Commission-recommended UNE-L process(es) would ensure that the procedures, practices, and facilities are in place for efficient, smooth, and error free provisioning of the thousands of daily loop transactions required by a competitive UNE-L marketplace.¹¹

An independent third party selected by the Commission with input from the various Collaborative participants would conduct the test for

¹¹ In a recent *ex parte*, SBC blithely assures the FCC that its loop provisioning systems are sufficiently robust to handle any expected demand arising from a transition away from UNE-P to UNE-L. It claims that the "process is sound" and the "results are great." MCI is not comforted by these assurances. In its *ex parte* SBC cites its actual experience in loop cutovers in its SWBT, Ameritech and Pacific Bell service areas for the 12-month period ending May 31, 2002. In SWBT territory, SBC's subsidiary handled a bit more than 79,000 "hot cuts." Even assuming that these cutovers went as smoothly as SBC claims, the residential marketplace would generate hundreds of thousands of transactions in the same period of time as measured by SBC. See, SBC Ex Parte dated November 1, 2002 at 9. Whatever SBC's actual experience has been in migrating customers to unbundled loops to date, the sheer numbers that would be involved in the residential market make that experience meaningless.

scalability, quality and timeliness, including a market trial in which large numbers of “customers” would be migrated to a UNE-L platform. MCI volunteers for the market trial.

The Commission would monitor the UNE-L testing, revise any unworkable processes, and order retesting as needed to ensure workable processes that would provide for a seamless transition of the competitive Texas telecommunications marketplace.

A COMMISSION ORDER

MCI recommends the issuance of the Commission order, specifying those conditions that would be necessary for the transition to UNE-L of the Texas residential and small business local market, consistent with the Commission’s findings.

IV. Conclusion

This Commission has created the framework that invites carriers to provide service to Texans at competitive rates. A flash-cut elimination of UNE-P as a means of provisioning telecommunication service would serve solely to shutdown the nascent competitive industry and create chaos. This drastic measure is not in the public interest. Nor have all the factors that would affect the success or failure of a transition away from UNE-P toward UNE-L been identified, let alone investigated.

MCI proposes that an orderly transition of competitors from UNE-P to their facilities-based provision of service to end users within a workable time frame and under the proper conditions serves the public interest and is consistent with PURA’s telecommunications mandate of promoting the

diversity of providers, encouraging a fully competitive telecommunications marketplace, and maintaining a wide availability of high quality, interoperable, standards-based services at affordable rates.¹²

MCI thus requests that the Commission initiate as soon as possible the investigation proposed herein.

Respectfully submitted,

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¹² *PURA § 51.001(b).*



N A R U C
National Association of Regulatory Utility Commissioners

Chairman Michael Powell
Commissioner Kevin Martin
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Jonathan Adelstein
445 12th Street SW, Portals II Building
Washington, D.C. 20544

RE: Notice of Written Ex Parte Comment – Two Originals filed in the proceeding captioned: *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket Nos. 01-338, 96-98 and 98-147, Notice of Proposed Rulemaking, FCC 01-361 (rel. Dec. 20, 2001).

Dear Commissioners:

As this year ends, all eyes in the telecommunications industry are focused on your agency's plans to act in the above-captioned proceeding. As you know, just last month, NARUC Commissioners from all over the country converged on Detroit either in person or by phone to discuss local phone competition issues with two FCC Commissioner colleagues.

NARUC believes it speaks volumes of those FCC commissioners' sensitivity to State concerns that they traveled to Detroit and devoted practically a whole day to the meeting. A representative from the office of the Chairman and another staff representative from the FCC's Wireline Competition Bureau also attended. We believe their presence demonstrates recognition that States must continue to play a significant role in the partnership fostered by the 1996 legislation. Commissioner Copps was unable to make the meeting because of some unavoidable conflicts, but he also made specific arrangements to speak separately with interested NARUC commissioners on these issues.

This letter is to re-emphasize our commitment to the tasks Congress assigned to the State commissions. We urge each of you not to limit or restrict the tools available to the States in fulfilling our Congressionally assigned tasks as we join the FCC to meet our common goal of assuring that consumers reap the benefits of a competitive local market. In this environment, the country will benefit from State experimentation. The FCC should follow the suggestions of the recent D.C. Circuit decision and allow States to make the granular analysis needed to see which UNEs are required in their respective markets.

STATE FLEXIBILITY TO MAINTAIN UNE-P AS WELL AS THE ABILITY TO ADD TO ANY NATIONAL UNE LIST IS CRITICAL TO KEEPING COMPETITION "ON TRACK."

The undersigned strongly support, as a necessary prerequisite to keeping the competition initiative on track, continued State flexibility to maintain the UNE-P as an entry strategy, as well as the ability to add to any national list of UNEs. Any restriction on the State flexibility on this option will negatively impact the growth of local competition. We offer the following basic outline as our suggestions for the components of a useful FCC order in this docket.

Elements State Regulators Urge as Components of any FCC Order

(1) NO STATE PREEMPTION:

Any FCC Order should make clear no preemption is intended or should be implied - particularly with respect to additions to the National list imposed by States.

(2) PRESUMPTIVE NATIONAL LIST THAT INCLUDES EXISTING UNE's.

Any FCC list should, at a minimum, include all existing items.

(3) STATE CHECK OFF BEFORE A UNE IS DE-LISTED

Carriers that want to remove an item from the list must make a factual case before a State commission.

(4) TIMING OF IMPACT OF STATE DECISION

Any challenged UNE stays on the required list until State commission makes contrary finding.

(5) CAUCUS WITH STATES NECESSARY PREREQUISITE

FCC should caucus with State Commissions extensively before promulgating the "necessary and impair" standard used to evaluate if a UNE should be available.

(6) STATE AUTHORITY TO ADD UNES CONFIRMED.

FCC should confirm its previous ruling that States RETAIN the right to add to the national list after hearing based on State and Federal law.

State commissions remain focused on the difficult tasks of promoting facilities-based competition as envisioned by the 1996 Telecommunications Act and assuring customers receive better services and more choices at lower prices. We emphasize that we cannot accomplish that important economic policy goal without the availability of effective competitive entry strategies such as UNE-P.

Thank you for your attention to our concerns. Please do not hesitate to contact any one of us for additional information on this or any other telecommunications issue.

Sincerely,

Signatories to the Letter (The original is signed by all listed commissioners.):

David A. Svanda, NARUC President; Michigan Commissioner
Stan Wise, NARUC First Vice President; Georgia Commissioner
Marilyn Showalter, NARUC Second Vice President; Washington Chairwoman

Joan H. Smith, Chair, NARUC Telecommunications Committee; Oregon Commissioner
Robert B. Nelson, Vice Chair, Telecommunications Committee; Michigan Commissioner
Thomas J. Dunleavy, Vice Chair, Telecommunications Committee; New York Commissioner

{Other Commissioners in Alphabetical Order by last Name}

New Jersey Commissioner Jack Alter
Arkansas Commissioner Daryl E. Bassett
Oregon Commissioner Lee Beyer
New Mexico Commissioner Jerome D. Block
Nebraska Chair Anne Boyle
South Dakota Chair James A. Burg
Vermont Commissioner John Burke
New Jersey Board Commissioner Fred Butler
Utah Commissioner Ric Campbell

District of Columbia Chairman Angel Cartegena
Michigan Chair Laura Chappelle
North Dakota Commissioner Anthony T. Clark
Vermont Commissioner David Coen
Maryland Commissioner J. Joseph Curran, III
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Wisconsin Commissioner Bert Garvin
Connecticut Commissioner Jack Goldberg
Maryland Commissioner Ronald A. Guns
Illinois Commissioner Terry Harvill
Oregon Chair Roy Hemmingway
Washington Commissioner Richard Hemstad
Arkansas Chairman Sandra L. Hochstetter
New Jersey Board President Connie Hughes
New Mexico Commissioner Herb H. Hughes
Illinois Commissioner Edward C. Hurley
Arizona Commissioner James M. Irvin
Nebraska Commissioner Lowell Johnson
Nebraska Commissioner Rod Johnson
Ohio Commissioner Judith A. Jones
Idaho Commissioner Paul Kjellander
Texas Chair Becky Klein
Illinois Commissioner Ruth K. Kretschmer
Iowa Commissioner Mark. O. Lambert
Nebraska Commissioner Frank Landis, Jr.
Wyoming Commissioner Kristin Lee
New Mexico Commissioner Lynda M. Lovejoy
California Commissioner Lorretta Lynch
Ohio Commissioner Donald L. Mason
Indiana Chairman William D. McCarty
Maryland Commissioner Gail C. McDonald
New Mexico Commissioner Rory McMinn
Utah Chairman Steve Mecham
Virginia Chairman Clinton Miller
Arizona Chairman William Mundell
Iowa Chairman Diane C. Munns
New Jersey Commissioner Carol J. Murphy
South Dakota Vice Chair Pam Nelson
Washington Commissioner Patrick J. Oshie
Texas Commissioner Brett Perlman
North Dakota Commissioner Leo M. Reinbold
Maryland Chairman Catherine I. Riley
Indiana Commissioner Judith Ripley

South Dakota Commissioner Bob Sahr
North Carolina Chair Jo Anne Sanford
New Mexico Chairman Tony Schaefer
Ohio Chairman Alan Schriber
Iowa Commissioner Elliott Smith
Nevada Chairman Donald L. Sodenberg
Illinois Commissioner Mary Francis Squires
Alaska Chair Nan Thompson
Nebraska Commissioner Gerald Vap
Alabama Commissioner George C. Wallace, Jr.
North Dakota President Susan E. Wefald
California Commissioner Carl Wood
Illinois Chairman Kevin K. Wright
District of Columbia Commissioner Agnes A. Yates
Indiana Commissioner David E. Ziegner

FOR IMMEDIATE RELEASE
November 20, 2002

Contact: Jaclyn Wintle: 202.898.9382

**EIGHTY STATE COMMISSIONERS SIGN LETTER TO THE FCC URGING THE
INCORPORATION OF CRITICAL STATE FLEXIBILITY IN ANY TRIENNIAL REVIEW
ORDER**

Washington, D.C. 2- November 20, 2002- Eighty (80) State Commissioners from thirty-four (34) States signed a letter to the Federal Communications Commission today indicating their support for continued State flexibility to maintain the so-called "UNE platform" as an entry strategy, as well as the ability to add to any national list of UNEs. State commissions remain focused on the difficult tasks of promoting facilities-based competition as envisioned by the 1996 Telecommunications Act and assuring customers receive better services and more choices at lower prices. The letter emphasizes that regulators cannot accomplish that important economic policy goal without the availability of effective competitive entry strategies such as UNE-P. Whether or when the platform should be eliminated from particular State markets should be based on granular evidentiary State examinations of the various markets within a State. These commissioners agree that restrictions on the State flexibility to alter or maintain the list will negatively impact the growth of local telephone competition.

The letter praises all four sitting FCC Commissioners for their interest and exchanges with the States thus far on these issues before outlining several important elements the States believe should be incorporated in any FCC order in this proceeding. NARUC President David A. Svanda, First Vice President Stan Wise, Second Vice President Marilyn Showalter, and the leadership of the NARUC Telecommunications Committee Commissioners Bob Nelson, Joan Smith and Tom Dunleavy were among the letter's signatories.

NARUC President Svanda announced the measure. After reiterating the Association members' thanks to the various FCC Commissioners and offices for meeting with NARUC members, he said: "The sheer number of individual commissioners that signed this letter is a clear indication of the strength of the States' convictions on these points. We are looking forward to continuing to work with our federal counterparts on these issues."

The new Chair* of NARUC's Committee on Telecommunications, Michigan Commissioner Bob Nelson said, "This letter is just another step in the process. The Telecommunications Committee is arranging a series of joint conference calls with both the FCC staff and FCC commissioners later this month to continue the dialogue in this proceeding."

The letter (attached) goes on to outline six principles NARUC asks the FCC to reflect in its final decision: (1) Any FCC Order should make clear no preemption is intended particularly with respect to additional UNEs imposed by States. (2) The FCC Order should contain a presumptive national list that includes existing UNEs. (3) The FCC Order should allow a State "check-off" before any UNE is "de-listed." (4) The FCC should continue to caucus with State Commissions extensively before promulgating the "necessary and impair" standard used to evaluate if a UNE should be available, and (6) FCC should confirm its previous (and heretofore unchallenged) ruling that States RETAIN the right to add to the national list after hearing based on State and Federal law.

The National Association of Regulatory Utility Commissioners is a non-profit organization founded in 1889. Its members include the governmental agencies that are engaged in the regulation of utilities and carriers in the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands. NARUC's member agencies regulate telecommunications, energy, and water utilities. NARUC represents the interests of State public utility commissions before the three branches of the Federal government and the Independent Federal agencies. Additionally, NARUC files briefs and pleadings before the U.S. Supreme Court and other Federal courts in support of State utility commission interests. NARUC also provides the Executive Branch with policy proposals and works with the Departments on the formulation of regulatory policies. NARUC works closely with the Federal Communications Commission to ensure the State perspective is considered in their proceedings.

**The National Association of Regulatory Utility Commissioners
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*See related Press Release announcing appointment of Commissioner Nelson to Chair the Telecommunications Committee.